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OCA 0843-89

SUBJECT: Letter to House Ways and Means Committee On
Intelligence Community Tax Provision

OCA/LEG/ [] (29Mar89)

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30 MAR 1989

OCA 0843-89

MEMORANDUM FOR: Director of Central Intelligence

FROM:

[Redacted]
Acting Director of Congressional Affairs

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SUBJECT: Letter to House Ways and Means Committee
On Intelligence Community Tax Provision

1. Attached at Tab A for your signature is a letter to Chairman Rostenkowski of the House Ways and Means Committee endorsing H.R. 1291, the "Intelligence Tax Equalization Act." This bill, introduced by Chairman Beilenson and Representative Kennelly of the House Intelligence Committee, is a proposal the Intelligence Community has been trying to have enacted for the last several years. It would give employees of the Defense Intelligence Agency and National Security Agency tax relief on overseas benefits comparable to the relief currently enjoyed by Central Intelligence Agency and Foreign Service employees on similar benefits.

2. The proposal has been included in the last several years' intelligence authorization bills and is contained in Section 501 of this year's bill currently awaiting Administration clearance. A copy of section 501 and justification for that section are attached at Tab B.

3. Last year, you wrote to Chairman Rostenkowski supporting the measure. We understand that while your letter was favorably received, the Ways and Means Committee was not able to take action at the time due to unrelated circumstances surrounding the timing of amendments to the legislative vehicle to which the proposal was to be attached.

4. This year's letter will reiterate support for the measure and help ensure its favorable consideration. The fact that Mrs. Kennelly now sits on the Intelligence Committee as well as the Ways and Means Committee will also undoubtedly assist.

SIGNED

[Redacted]

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Attachments

Central Intelligence Agency



Washington, D.C. 20505

04 APR 1989

The Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I write to indicate my support and that of the Intelligence Community for H.R. 1291, the "Intelligence Tax Equalization Act," introduced on 9 March 1989 by Chairman Beilenson of the Permanent Select Committee on Intelligence and Representative Kennelly.

H.R. 1291 would amend Section 912 of the Internal Revenue Code to provide tax treatment on allowances for certain Department of Defense personnel comparable to that provided to Foreign Service and Central Intelligence Agency employees for similar allowances.

This proposal has been included, for the last several years, in the Administration's proposed intelligence authorization bill as submitted to the Congress and, you may recall, that I wrote you last year in support of it (copy enclosed).

I write again this year to reiterate my support and to request favorable consideration of this important legislation by the Committee.

We would be glad to provide any further information on this matter you or your staff may need. Should you have any questions in this regard, please contact [redacted] of my staff [redacted]

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The Honorable Dan Rostenkowski

The Office of Management and Budget advises that there is no objection to the submission of this report to Congress.

Sincerely yours,

/s/ William H. Webster

William H. Webster
Director of Central Intelligence

Enclosure

cc: The Honorable Anthony Beilenson
The Honorable Charles B. Rangel
The Honorable Barbara Kennelly

Central Intelligence Agency



Washington, D.C. 20505

Honorable Dan Rostenkowski, Chairman
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

On 26 April 1988, Chairman Stokes of the Permanent Select Committee on Intelligence wrote you concerning a proposal to amend Section 912 of the Internal Revenue Code to provide tax treatment on allowances for certain Department of Defense personnel comparable to that provided to Foreign Service and Central Intelligence Agency employees for similar allowances. This proposal was contained in Section 601 of the Administration's proposed version of the Fiscal Year 1989 Intelligence Authorization bill, submitted to the Congress on 9 March 1988.

The background of the proposal is as follows. Several years ago, the Congress recognized that individuals employed overseas by the National Security Agency and the Defense Intelligence Agency serve in circumstances comparable to those of overseas employees of the Central Intelligence Agency and the Foreign Service and, as such, should receive comparable allowances. The Congress therefore extended to the former group of employees allowances comparable to those enjoyed by the latter. An inequity, however, remains between these groups: CIA and Foreign Service personnel receive favorable tax treatment on their allowances while comparable DoD officers do not. This proposal would rectify that inequity.

As the materials enclosed with Chairman Stokes' letter to you indicate, the proposal has previously received a favorable response in the Senate. We in the Intelligence Community strongly support it and would greatly appreciate its favorable consideration by the Ways and Means Committee.

Please let us know if you have any further questions.

The Office of Management and Budget advises that the submission of this report is consistent with the Administration's objectives.

Sincerely yours,

W. William H. Webster

William H. Webster
Director of Central Intelligence

cc: The Honorable Louis Stokes, Chairman, Permanent Select
Committee on Intelligence

OCA 0837-89

The Honorable Dan Rostenkowski

OCA/LEG. [REDACTED] (29Mar89)

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Original - Addressee

- 1 - The Honorable Anthony Beilenson
- 1 - The Honorable Charles B. Rangel
- 1 - The Honorable Barbara Kennelly
- 1 - ER
- 1 - [REDACTED] General Counsel, Defense
Intelligence Agency
- 1 - [REDACTED] National Security Agency
- 1 - Sue Thau, Office of Management and Budget
- 1 - Michael J. O'Neil, House Permanent Select
Committee on Intelligence
- 1 - Janice A. Mays, Subcommittee on Select Revenue
Measure, of the Committee on Ways and Means
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TITLE V
NSA/DIA/ARMY
PERSONNEL AUTHORITIES IMPROVEMENTS

NSA/DIA Employee Tax Equalization

SEC. 501. Section 912 (1) of chapter 1 of title 26, United States Code, is amended by striking the "or" in paragraph (C) and inserting at the end thereof the following new paragraphs:

"(E) subsection (b) of section 9 of the National Security Agency Act of 1959, as amended (50 U.S.C. §402 note), whenever the allowance would be excluded from gross income under paragraphs (1)(A) or (1)(B) of this section, or

"(F) subsection 1605 (a) of title 10, United States Code, whenever the allowance would be excluded from gross income under paragraph 1(A) of this section."

TITLE V
NSA/DIA
PERSONNEL AUTHORITIES IMPROVEMENTS

Section 501 would amend section 912(a) of the Internal Revenue Code of 1954 to grant tax treatment of allowances currently provided to certain Department of Defense (DoD) personnel under section 9(b)(1) of the National Security Agency Act of 1959 and section 1605 of title 10, United States Code, comparable with that provided to Foreign Service employees for similar allowances.

The Intelligence Authorization Act of 1982 (Public Law 97-89) amended the National Security Agency Act of 1959 to allow the Director of the National Security Agency to provide allowances and benefits to certain civilian employees of DoD which were comparable to those provided to the Department of State's Foreign Service and to employees of the Central Intelligence Agency. During the implementation of this statute, it was discovered that comparability of the allowances could not be achieved unless the tax exemption provided for Foreign Service and CIA employees under section 912(1)(A) and (B) of the Internal Revenue Code was also available for civilians employed and assigned to the National Security Agency.

The Intelligence Authorization Act for Fiscal Year 1984 (Public Law 98-215) amended title 10, United States Code, to provide certain allowances and benefits to personnel assigned to Defense Attaché Offices (DAO) and Defense Intelligence Agency Liaison Offices (DIALO) overseas comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under chapter 9 of title 1 of the Foreign Service Act of 1980 and the provisions of 5 U.S.C. §5924(4). Although section 1605 was designed to establish equivalence between DAO/DIALO civilians and Foreign Service personnel with respect to many allowances and benefits, the actual value of the allowances and benefits to DAO and DIALO personnel is less than the value of the benefits to Foreign Service personnel, since the benefits granted under the Foreign Service Act are tax-free by virtue of section 912 of the Internal Revenue Code while those granted under section 1605 are not exempt from taxation.

The current inequity in taxation has been compounded by subsection 1232(b) of the Tax Reform Act of 1986 (Public Law 99-154). This subsection provides that civilian employees of DoD stationed in Panama may exclude from gross income allowances which are comparable to allowances excludable under section 912(a) of the Internal Revenue Code by employees of the Department of State stationed in Panama. Thus, it appears that any Defense Intelligence Agency or National Security Agency

personnel stationed in Panama will, in future taxable years, be able to exclude from their gross income Foreign Service-equivalent allowances and benefits granted to them.

As a result of the provisions discussed above, there is now a situation where the tax laws treat identical allowances and benefits differently for NSA and DIA civilian personnel stationed overseas, from that of Foreign Service personnel. Moreover, under the Tax Reform Act of 1986, the tax laws now treat identical allowances and benefits differently for NSA and DIA civilian personnel in Panama from all other NSA and DIA civilian personnel stationed overseas. The addition of the proposed paragraphs (B) and (F) to section 912(1) of the Internal Revenue Code of 1954 will provide equal tax treatment for identical allowances and benefits received by NSA, DIA and Foreign Service civilian personnel stationed around the world.

The Congress is mindful of this problem and has indicated a willingness to assist. A provision identical to the amendment sought here was included in S. 1243, the Fiscal Year 1988 Intelligence Authorization Act as reported by the Senate Select Committee on Intelligence. During floor action on July 23, 1987, however, SSCI Chairman Boren was compelled to move to strike the provision from S. 1243 on account of a jurisdictional dispute. He indicated, however, that the Congress would be very receptive to the provision in the future (Congressional Record, July 23, 1987, pp. S 10591-92).

The provision was resubmitted to the Congress as Section 601 of the Administration's draft Fiscal Year 1989 Intelligence Authorization bill. By letter of 26 April 1988, Chairman Stokes of the Permanent Select Committee on Intelligence wrote to Chairman Rostenkowski of the House Ways and Means Committee concerning the proposal. By letter dated 25 May 1988, the Director of Central Intelligence wrote to Chairman Rostenkowski soliciting favorable consideration of the proposal by the Committee. The 100th Congress adjourned, however, without taking action on the proposal.

Section 501 is resubmitted again this year in hopes that it will be enacted.